

REMARKS

This amendment is submitted in response to the Office Action mailed June 27, 2002. Favorable reconsideration of the application, as amended, is respectfully requested.

Rejections under §102

Claims 21-24 were rejected under 35 U.S.C. 102(b) as being anticipated by Chao (5,110,839), Chao (5,109,030), Sugama (4,871,395), and Uegaeshi et al. (3,834,918). These patents disclose similar foamed cementitious compositions. However, none of the patents discloses a foaming composition for providing a cover layer comprising a clay mineral in addition to a foaming agent and a water soluble polymer, the composition when mixed with an aqueous carrier forming a foamed sprayable aqueous slurry suitable for providing a cover layer over a selected material.

The Chao patents disclose hydraulic compositions useful as substrates in a variety of wall, floor and roof applications such as roof decks, shingles, tiles, slates, wall panels, exterior and interior flooring materials, roof panels, insulative composite boards, lightweight bricks, and columns. "Hydraulic" means that the compositions set and harden when water is added. It would not be obvious to add a clay mineral to the hydraulic compositions disclosed in the Chao patents, because the addition of a clay would soften the compositions and make them unsuitable or at least less suitable for the uses described in the patents.

The Sugama patent discloses a cement composition suitable for use in geothermal wells because it can withstand high pressure. Again, the addition of a clay mineral to the composition would soften the composition and make it unsuitable or less suitable for its intended use. Therefore, it would not be obvious to add a clay mineral to the composition.

The Uegaeshi et al. patent discloses a cement composition suitable for making architectural structures. The addition of a clay mineral to the composition would soften and weaken it, and make it unsuitable or less suitable for its intended use. Therefore, it would not be obvious to add a clay mineral to the composition.

Hansen (5,161,915) was made of record but not relied upon. This patent discloses a synthetic cover for waste piles. However, there is no suggestion in the patent that the synthetic cover could be foamed, and no suggestion of the desirability of foaming the cover. There is no disclosure of a water soluble polymer or a foaming agent. Therefore, it is submitted that the present invention is not obvious in view of Hansen or a combination of Hansen with the cited patents.

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Substitute the following amended Claim 21 for the pending claim of the same number:

21. (Amended) A foaming composition for providing a cover layer comprising:

- (a) a foaming agent,
- (b) a [bulking material] clay mineral, and
- (c) a water soluble polymer,

the composition when mixed with an aqueous carrier forming a foamed sprayable aqueous slurry suitable for providing a cover layer over a selected material.